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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

In re ALEXANDER M., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEXANDER M.,

Defendant and Appellant.

F076483

(Super. Ct. No. JJD070634)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Tulare County. Juliet L. Gallo, Judge.

Candice L. Christensen, under appointment by the Court of Appeal, Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Lewis A. Martinez and Louis M. Vasquez, Deputy Attorney Generals, for Plaintiff and Respondent.

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\* Before Smith, Acting P.J., Meehan, J. and Snauffer, J.

The juvenile court found true a robbery allegation in a juvenile delinquency petition filed against Alexander M. The court therefore sustained the petition and declared Alexander a ward of the court. The court placed Alexander on probation subject to various conditions, including that he obey all laws and submit to an electronic search condition.

Subsequently, a notice of violation of probation was filed against Alexander in the same matter, alleging that he violated the “obey all laws” probation condition by committing an *attempted* robbery. The juvenile court found Alexander had indeed violated the conditions of his probation. The court continued Alexander on probation, renewing the existing terms and conditions of probation, including the electronic search condition. This appeal followed. The sole issue on appeal is the validity of the electronic search condition.

Shortly after Alexander filed the opening brief in this matter, this court decided Alexander’s earlier appeal from the juvenile court’s disposition on the underlying delinquency petition (alleging the commission of a robbery). This court reversed the juvenile court’s true finding on the robbery allegation and, in turn, that court’s determination that the petition was sustained. Our reversal of the juvenile court’s disposition as to the underlying delinquency petition (i.e., the jurisdictional finding on which Alexander’s probation was based) moots the instant appeal. Accordingly, this matter is dismissed as moot.

### **FACTS AND PROCEDURAL HISTORY**

On May 26, 2017, an original juvenile delinquency petition was filed in the Tulare County Superior Court (juvenile division), pursuant to Welfare and Institutions Code section 602,<sup>1</sup> alleging that Alexander, a minor, had committed felony second degree

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<sup>1</sup> Subsequent statutory references are to the Welfare and Institutions Code, unless otherwise specified.

robbery and misdemeanor battery. (Pen. Code, §§ 211, 242.) At a contested jurisdictional hearing on June 20, 2017, the juvenile court found the robbery count to be true and sustained the petition as to that count. The court found that the battery count was not proven beyond a reasonable doubt, whereupon that count was dismissed. On June 30, 2017, Alexander was declared a ward of the court, placed on probation under the supervision of a probation officer, and returned to the custody of his mother. The court imposed a number of probation conditions, including that Alexander obey all laws and submit to warrantless searches of any electronic devices under his control, at any time, by any peace or probation officer.

On August 25, 2017, the district attorney filed a notice of violation of probation against Alexander, pursuant to section 777, alleging that Alexander had violated a condition of probation ordered by the court. Specifically, the notice alleged that Alexander had failed to obey all laws by committing an attempted robbery, in violation of Penal Code sections 664 and 211. At a contested jurisdictional hearing held on September 21, 2017, the court found the alleged violation of probation to be true. Thereafter, at a disposition hearing on October 6, 2017, the court continued Alexander as a ward of the court, placed him on probation under the supervision of a probation officer, and returned him to the custody of his mother. The court directed that all prior orders, including the previously-ordered probation terms and conditions, were to remain in full force and effect. The instant appeal followed.<sup>2</sup>

## **DISCUSSION**

### ***I. Probation Condition Authorizing Warrantless Searches of Electronic Devices***

In this appeal, Alexander challenges the electronic search condition imposed by the juvenile court at his original disposition hearing and renewed, over defense objection,

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<sup>2</sup> The facts of Alexander's underlying juvenile adjudication, as well as the facts related to the violation of probation as found by the court, are irrelevant to the resolution of this appeal and are therefore omitted.

at the disposition hearing regarding his subsequent violation of probation. Alexander argues this probation condition is “unreasonable under *People v. Lent* (1975) 15 Cal.3d 481, and unconstitutionally overbroad, infringing on his Fourth Amendment right to privacy.” He requests reversal of the judgment and remand of the matter for requisite “modification” of this probation condition.

However, as the People point out, when the instant appeal from the disposition on the probation violation was filed, Alexander’s earlier appeal from the judgment in the underlying case was still pending in this court. Shortly after Alexander filed his opening brief in this matter, this court decided his appeal in the underlying case. This court reversed the juvenile court’s jurisdictional finding on the original delinquency petition and, in turn, the judgment. (See *In re Alexander M.* (July 11, 2018, F075956) [nonpub. opn.];<sup>3</sup> see also *People v. Hogue* (1991) 228 Cal.App.3d 1500, 1505 [reversal of trial court’s judgment sets parties in same position as if no trial had been had].) The reversal of the juvenile court’s jurisdictional finding underlying Alexander’s placement on probation effectively terminated his probation and, in turn, rendered moot Alexander’s instant challenge to the electronic search probation condition. (See *People v. Carbajal* (1995) 10 Cal.4th 1114, 1120, fn. 5 [termination or revocation of probation moots any challenge to a condition of probation]; *In re R.V.* (2009) 171 Cal.App.4th 239, 245-246 [same]; *In re I.A.* (2011) 201 Cal.App.4th 1484, 1490 [courts may ordinarily consider only existing controversies, not moot questions or theoretical propositions].)

As Alexander’s probation was effectively terminated upon reversal of the underlying jurisdictional finding, resolution of the question of the validity of a condition of that probation would no longer have any practical impact or effect. (See *MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 214 [“A

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<sup>3</sup> We hereby grant the People’s request, made by way of a separate noticed motion, asking us to take judicial notice of this earlier opinion.

case is moot when the decision of the reviewing court ‘can have no practical impact or provide the parties effectual relief.’”].) Accordingly, this matter is dismissed as moot.<sup>4</sup> (*In re. I.A., supra*, at p. 1490 [“When the court cannot grant *effective* relief to the parties to an appeal, the appeal must be dismissed.”].)

### **DISPOSITION**

Dismissed as moot.

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<sup>4</sup> Alexander urges us to exercise our discretion to consider the probation condition at issue here, positing that, although technically moot, it “presents an important question affecting the public interest that is ““capable of repetition, yet evading review.””” (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1190, fn. 6.) We decline his invitation as, were Alexander subjected to such a condition of probation in the future, review thereof would be granted in the normal course of events.